

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DOC #:
DATE FILED: 8/3/2017

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UNITED STATES OF AMERICA,

-against-

JOSEPH PERCOCO,
a/k/a "Herb,"
ALAIN KALOYEROS,
a/k/a "Dr. K,"
PETER GALBRAITH KELLY, JR.,
a/k/a "Braith,"
STEVEN AIELLO,
JOSEPH GERARDI,
LOUIS CIMINELLI,
MICHAEL LAIPPLE, and
KEVIN SCHULER,

Defendants.
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16-CR-776 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS the Court ordered that the trial in this action will be SEVERED as follows:

(1) Defendants Percoco, Aiello, Gerardi, and Kelly (hereafter the "January Trial Group") will be tried jointly on Counts 6 through 15,¹ with jury selection and trial beginning on January 8, 2018; and (2) Defendants Kaloyeros, Aiello, Gerardi, Ciminelli, Laipple and Schuler (hereafter the "Second Trial Group") will be tried jointly on Counts 1 through 5, with jury selection and trial beginning not sooner than May 15, 2018 [Dkt. 279];

IT IS HEREBY ORDERED that jury selection and trial for the Second Trial Group will begin on **June 11, 2018;**

¹ The Government has advised that if the case is severed consistent with its proposal that it intends to seek a Superseding Indictment that would split the existing Count 15 into two separate false statement counts, one that should logically be tried with Counts 1 through 5 and one that should logically be tried with Counts 6 through 14. The Court will deal with any changed configuration of Count 15 if and when it occurs.

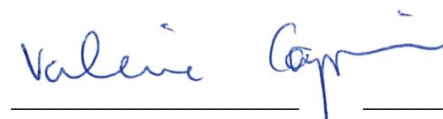
IT IS FURTHER ORDERED that the parties in the Second Trial Group must meet and confer on a schedule for the production of witness lists, evidence lists and 3500 materials that is consistent with the schedule provided below that will govern the trial for the Second Trial Group. The Government is encouraged to agree to early production of 3500 materials absent any reason to believe there is a risk to the fairness of the trial from doing so and in light of the volume of discovery materials.

1. On or before **March 13, 2018**, the Government must provide notice of any evidence it seeks to introduce at trial pursuant to Federal Rule of Evidence 404(b).
2. Motions *in limine* must be filed on or before **April 4, 2018**.
3. Responses to motions *in limine* must be filed on or before **May 4, 2018**. There will be no reply briefs.

IT IS FURTHER ORDERED that pursuant to 18 U.S.C § 3161(h)(7)(A), the period of delay between August 3, 2017, and January 8, 2018, for the January Trial Group, and the period of delay between August 3, 2017, and June 11, 2018, for the Second Trial Group, is excluded under the Speedy Trial Act. Given the complexity of this case, including the voluminous discovery that needs to be reviewed, the ends of justice served by allowing Defendants sufficient time to review discovery and prepare for trial outweigh the public's and the Defendants' interests in a speedy trial.

SO ORDERED.

Dated: August 3, 2017
New York, NY


VALERIE CAPRONI
United States District Judge